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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,752	07/08/2003	Randall S.E. Peterson	68808/10	6145

27871 7590 11/02/2006

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EXAMINER

LEIVA, FRANK M

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/614,752

Applicant(s)

PETERSON, RANDALL S.E.

Examiner

Frank M. Leiva

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8th of July, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/08/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Applicant's claim for the benefit of a priority on a Provisional application under 35 U.S.C. 120, is acknowledged.

Information Disclosure Statement

2. The information disclosure statement filed July 8th, 2003 complies with 37 CFR 1.97(d and e), and 37 CFR 1.98. It has been placed taken in consideration by the examiner.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show;
 - a. Items 13a-13p in spec page 4 line 18 is not in figure 1.
 - b. Missing API in spec page 4 line 24 is not in figure 2.
 - c. Representation of the player and interaction with the system is not represented,
 - d. In figure 4 missing designations "Table A, Table B, Table C, Table D", and positions 1 - 4 from page 5 lines 9 and 10.
 - e. In figure 4 the block representations do not have an identifier, reference numbers such as A1 do not add meaning to the drawing in figure 4, as is the drawings do not have enough information to represent an idea without the full explanation of the drawing as described in the specification.

Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to under 37 CFR 1.71, as being so incomprehensible as to preclude a reasonable search of the prior art by the examiner. For example, the following items are not understood: Lines 17 and 28 on page 4 show the individuals as computers and then there is an input device connected to the computers for the players,

if the players are represented in the computers who is using the input devices. It is suggested introducing the individuals (players) into the drawings to improve the graphical representation of the invention, also page 8 lines 27 – 29 the term "computer players" is indefinite, if the players are using a computer, they are all computer players. Please expand on whether we are talking about real, virtual or computer simulated players.

Applicant is required to submit an amendment which clarifies the disclosure so that the examiner may make a proper comparison of the invention with the prior art.

Applicant should be careful not to introduce any new matter into the disclosure (i.e., matter which is not supported by the disclosure as originally filed).

A shortened statutory period for reply to this action is set to expire THREE MONTHS or THIRTY DAYS, whichever is longer, from the mailing date of this letter.

Claim Objections

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 5, and 16, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention;

a. Claim 5 recites the limitation "the like-rank players" in line 1. There is insufficient antecedent basis for this limitation in the claim.

- b. Claim 16 recites the limitation "the like-rank players" in line 1. There is insufficient antecedent basis for this limitation in the claim. For further review the examiner will interpret as meaning "of similar standing or skill level".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1 – 22, are rejected under 35 U.S.C. 102(a) as being anticipated by Saidakovsky (US 6,604,997).
- a. Regarding Claim 1, Saidakovski teaches a plurality of players until a specific number has been filled, the arrangement of cards for the game (the setup), and comparing game skills between players to determined skill levels. (Col 3:9-17;Col 11:37-43;Col 2:10-16).
- b. Regarding Claims 2, 11, 13, and 22, Saidakovski teaches the application of his invention to other card games this would include Poker and Blackjack. (Col 13:36-42).
- c. Regarding Claims 3, and 14, Saidakovski teaches the use of players winning to rank performance. (Claim 4 line4).

d. Regarding Claims 4 and 15, Saidakovski teaches pre-qualifications before tournament assignments (Col 2:58-60).

e. Regarding Claims 5 and 16, Saidakovski teaches the reassignment of players after every round (tournaments), (Col 7:6-23).

f. Regarding Claims 9, 10, 20, and 21, Saidakovski teaches limiting tournaments by time and number of rounds, (Col 8:45-65).

g. Regarding Claim 12 (a, b, and c), Saidakovski teaches a multitude of players connected via a network with assigned places, (Col 3:49-54); (d, e, and f), Saidakovski teaches a host server (Internet), a tournament management host and the table positions with equal hands (15', 15", 15'", 15'"), and the multiple ranking levels, (Col 3:54-67).

h. Regarding claims 6 – 8, and 17 – 19, Saidakovski teaches that his invention can be applied to a card game, where the cards are moved from a pile (drawn), the cards are shuffled to create a set-up (fixed number), and the cards are pre-selected before start of game, (Col 11:29-46).

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir.

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1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1-22 rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. US 7,104,542 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims on the instant application are substantially the same as the above listed patent and serves only to broaden the claims of the application that were previously allowed which is obvious to and artisan of ordinary skill.

Citation of prior art

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Listed material teaches other games of skill tournaments.

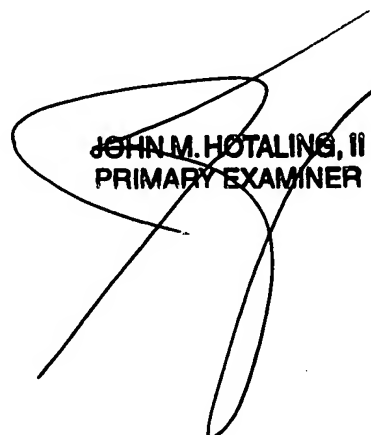
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank M. Leiva whose telephone number is (571) 272-2460. The examiner can normally be reached on M-Th 8:30am - 5:pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John M. Hotaling can be reached on (571) 272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FML


JOHN M. HOTALING, II
PRIMARY EXAMINER